

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	0

MR. SPEAKER:

*Your Committee on Judiciary, to which was referred Senate Bill 49, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 6-1.1-12-17.8, AS AMENDED BY P.L.154-2006,
- 4 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2007]: Sec. 17.8. (a) An individual who receives a deduction
- 6 provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter in a
- 7 particular year and who remains eligible for the deduction in the
- 8 following year is not required to file a statement to apply for the
- 9 deduction in the following year.
- 10 (b) An individual who receives a deduction provided under section
- 11 1, 9, 11, 13, 14, 16, or 17.4 of this chapter in a particular year and who
- 12 becomes ineligible for the deduction in the following year shall notify
- 13 the auditor of the county in which the real property, mobile home, or
- 14 manufactured home for which the individual claims the deduction is

located of the individual's ineligibility before June 11 of the year in which the individual becomes ineligible.

(c) The auditor of each county shall, in a particular year, apply a deduction provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter to each individual who received the deduction in the preceding year unless the auditor determines that the individual is no longer eligible for the deduction.

(d) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter for property that is jointly held with another owner in a particular year and remains eligible for the deduction in the following year is not required to file a statement to reapply for the deduction following the removal of the joint owner if:

- (1) the individual is the sole owner of the property following the death of the individual's spouse;
- (2) the individual is the sole owner of the property following the death of a joint owner who was not the individual's spouse; or
- (3) the individual is awarded sole ownership of the property in a divorce decree.

(e) A trust entitled to a deduction under section 9, 11, 13, 14, 16, or 17.4 of this chapter for real property owned by the trust and occupied by an individual in accordance with section 17.9 of this chapter is not required to file a statement to apply for the deduction, if:

- (1) the individual who occupies the real property receives a deduction provided under section 9, 11, 13, 14, 16, or 17.4 of this chapter in a particular year; and**
- (2) the trust remains eligible for the deduction in the following year.**

SECTION 2. IC 6-1.1-12-17.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 17.9. A trust is entitled to a deduction under section 9, 11, 13, 14, 16, or 17.4 of this chapter for real property owned by the trust and occupied by an individual if the county auditor determines that the individual:**

- (1) upon verification in the body of the deed or otherwise, has a beneficial interest in the trust;**
- (2) otherwise qualifies for the deduction; and**
- (3) would be considered the owner of the real property under**

1 **IC 6-1.1-1-9(f).".**

2 Page 4, between lines 9 and 10, begin a new paragraph and insert:

3 "SECTION 5. IC 29-1-7-15.1, AS AMENDED BY P.L.238-2005,
4 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2007]: Sec. 15.1. (a) When it has been determined that a
6 decedent died intestate and letters of administration have been issued
7 upon the decedent's estate, no will shall be probated unless it is
8 presented for probate before the court decrees final distribution of the
9 estate.

10 (b) No real estate situate in Indiana of which any person may die
11 seized shall be sold by the executor or administrator of the deceased
12 person's estate to pay any debt or obligation of the deceased person,
13 which is not a lien of record in the county in which the real estate is
14 situate, or to pay any costs of administration of any decedent's estate,
15 unless letters testamentary or of administration upon the decedent's
16 estate are taken out within five (5) months after the decedent's death.

17 (c) The title of any real estate or interest therein purchased in good
18 faith and for a valuable consideration from the heirs of any person who
19 died seized of the real estate shall not be affected or impaired by any
20 devise made by the person of the real estate so purchased, unless:

21 (1) the will containing the devise has been probated and recorded
22 in the office of the clerk of the court having jurisdiction within
23 five (5) months after the death of the testator; or

24 (2) an action to contest the will's validity is commenced within the
25 time provided by law and, as a result, the will is ultimately
26 probated.

27 (d) The will of the decedent shall not be admitted to probate unless
28 the will is presented for probate ~~not more than~~ **before the latest of the**
29 **following dates:**

30 (1) Three (3) years after the individual's death.

31 (2) **Sixty (60) days after the entry of an order denying the**
32 **probate of a will of the decedent previously offered for**
33 **probate and objected to under section 16 of this chapter.**

34 (3) **Sixty (60) days after entry of an order revoking probate of**
35 **a will of the decedent previously admitted to probate and**
36 **contested under section 17 of this chapter.**

37 However, in the case of an individual presumed dead under
38 IC 29-2-5-1, the three (3) year period commences with the date the

1 individual's death has been established by appropriate legal action.

2 SECTION 6. IC 29-1-7.5-3, AS AMENDED BY P.L.61-2006,
 3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2007]: Sec. 3. (a) Subject to section 2(d) of this chapter, a
 5 personal representative who administers an estate under this chapter
 6 may do the following without order of the court:

7 (1) Retain assets owned by the decedent pending distribution or
 8 liquidation including those in which the representative is
 9 personally interested or which are otherwise improper for trust
 10 investment.

11 (2) Receive assets from fiduciaries or other sources.

12 (3) Perform, compromise, or refuse performance of the decedent's
 13 contracts that continue as obligations of the estate, as the personal
 14 representative may determine under the circumstances. In
 15 performing enforceable contracts by the decedent to convey or
 16 lease land, the personal representative, among other possible
 17 courses of action, may:

18 (A) execute and deliver a deed of conveyance for cash
 19 payment of all sums remaining due or the purchaser's note for
 20 the sum remaining due secured by a mortgage or deed of trust
 21 on the land; or

22 (B) deliver a deed in escrow with directions that the proceeds,
 23 when paid in accordance with the escrow agreement, be paid
 24 to the successors of the decedent, as designated in the escrow
 25 agreement.

26 (4) Satisfy written charitable pledges of the decedent irrespective
 27 of whether the pledges constituted binding obligations of the
 28 decedent or were properly presented as claims, if in the judgment
 29 of the personal representative the decedent would have wanted
 30 the pledges completed under the circumstances.

31 (5) If funds are not needed to meet debts and expenses currently
 32 payable and are not immediately distributable, deposit or invest
 33 liquid assets of the estate, including moneys received from the
 34 sale of other assets, in federally insured interest-bearing accounts,
 35 readily marketable secured loan arrangements, or other prudent
 36 investments which would be reasonable for use by trustees
 37 generally.

38 (6) Acquire or dispose of an asset, including land in this or

- 1 another state, for cash or on credit, at public or private sale; and
2 manage, develop, improve, exchange, partition, change the
3 character of, or abandon an estate asset.
- 4 (7) Make ordinary or extraordinary repairs or alterations in
5 buildings or other structures, demolish any improvements, raze
6 existing or erect new party walls or buildings.
- 7 (8) Subdivide, develop, or dedicate land to public use; make or
8 obtain the vacation of plats and adjust boundaries; or adjust
9 differences in valuation on exchange or partition by giving or
10 receiving considerations; or dedicate easements to public use
11 without consideration.
- 12 (9) Enter for any purpose into a lease as lessor or lessee, with or
13 without option to purchase or renew, for a term within or
14 extending beyond the period of administration.
- 15 (10) Enter into a lease or arrangement for exploration and
16 removal of minerals or other natural resources or enter into a
17 pooling or unitization agreement.
- 18 (11) Abandon property when, in the opinion of the personal
19 representatives, it is valueless, or is so encumbered, or is in
20 condition that it is of no benefit to the estate.
- 21 (12) Vote stocks or other securities in person or by general or
22 limited proxy.
- 23 (13) Pay calls, assessments, and other sums chargeable or
24 accruing against or on account of securities, unless barred by the
25 provisions relating to claims.
- 26 (14) Hold a security in the name of a nominee or in other form
27 without disclosure of the interest of the estate but the personal
28 representative is liable for any act of the nominee in connection
29 with the security so held.
- 30 (15) Hold, manage, safeguard, and control the estate's real and
31 personal property, insure the assets of the estate against damage,
32 loss, and liability, and insure the personal representative
33 personally against liability as to third persons.
- 34 (16) Borrow money with or without security to be repaid from the
35 estate assets or otherwise and advance money for the protection
36 of the estate.
- 37 (17) Effect a fair and reasonable compromise with any debtor or
38 obligor, or extend, renew, or in any manner modify the terms of

1 any obligation owing to the estate. If the personal representative
2 holds a mortgage, pledge, or other lien upon property of another
3 person, the personal representative may, in lieu of foreclosure,
4 accept a conveyance or transfer of encumbered assets from the
5 owner thereof in satisfaction of the indebtedness secured by lien.

6 (18) Pay taxes, assessments, compensation of the personal
7 representative, and other expenses incident to the administration
8 of the estate.

9 (19) Hold an interest in a proprietorship, partnership, limited
10 liability company, business trust, corporation, or another domestic
11 or foreign form of business or enterprise.

12 (20) Continue a business.

13 (21) Take any action that may be taken by shareholders, partners,
14 members, or property owners, including contributing additional
15 capital to or merging, consolidating, reorganizing, recapitalizing,
16 dissolving, or otherwise changing the form of the business
17 organization.

18 (22) Allocate items of income or expense to either estate income
19 or principal, as permitted or provided by IC 30-2-14.

20 (23) Employ persons, including attorneys, auditors, investment
21 advisors, or agents, even if they are associated with the personal
22 representative, to advise or assist the personal representative in
23 the performance of the personal representative's administrative
24 duties; act without independent investigation upon their
25 recommendations; and instead of acting personally, employ one
26 (1) or more agents to perform any act of administration, whether
27 or not discretionary.

28 (24) Do any of the following concerning a claim or demand made
29 in favor of or against the estate for the protection of the estate and
30 of the personal representative in the performance of the personal
31 representative's duties:

32 (A) Release, assign, settle, compromise, or contest the claim
33 or demand.

34 (B) Participate in mediation or submit to arbitration to resolve
35 any dispute concerning the claim or demand.

36 (C) Extend the time for payment of the claim or demand.

37 (D) Abandon the claim or demand.

38 (25) Sell, mortgage, or lease any real or personal property of the

1 estate or any interest therein for cash, credit, or for part cash and
2 part credit, and with or without security for unpaid balances.

3 (26) Select a settlement option under any qualified or
4 nonqualified benefit or retirement plan, annuity, or life insurance
5 payable to the estate, and take appropriate action to collect the
6 proceeds.

7 (27) Inspect and investigate property held, directly or indirectly,
8 by the personal representative for the purpose of:

9 (A) determining the application of environmental law with
10 respect to the property; and

11 (B) doing the following:

12 (i) Take action to prevent, abate, or remedy an actual or a
13 potential violation of an environmental law affecting the
14 property, whether taken before or after the assertion of a
15 claim or the initiation of governmental enforcement by
16 federal, state, or local authorities.

17 (ii) Compromise claims against the estate that may be
18 asserted for an alleged violation of environmental law.

19 (iii) Pay the expense of inspection, review, abatement, or
20 remedial action to comply with the environmental law.

21 (28) Distribute assets of the estate upon such terms as the
22 personal representative may impose. To the extent practicable,
23 taking into account the decedent's probable intention, the power
24 to distribute assets includes the power to:

25 (A) pay an amount to a distributee who is under a legal
26 disability or whom the personal representative reasonably
27 believes to be incapacitated by:

28 (i) paying the amount directly to the distributee or applying
29 the amount for the distributee's use and benefit;

30 (ii) paying the amount to the guardian appointed for the
31 distributee;

32 (iii) paying the amount to a custodian under the Indiana
33 Uniform Transfers to Minors Act (IC 30-2-8.5) or a
34 custodial trustee under the Uniform Custodial Trust Act (IC
35 30-2-8.6); or

36 (iv) paying the amount to the trustee of a trust established by
37 the decedent or by the personal representative under
38 subsection (b); and

1 (B) make distributions of estate income and principal in kind,
 2 in cash, or partly in each, in shares of differing composition.

3 (29) Perform any other act necessary or appropriate to administer
 4 the estate.

5 (b) A personal representative who administers an estate under this
 6 chapter may, without court order, establish a trust to make distributions
 7 to a distributee who is under a legal disability or whom the personal
 8 representative reasonably believes is incapacitated. In establishing a
 9 trust under this subsection, a personal representative may exercise:

- 10 (1) the authority given to custodians under the Indiana Uniform
 11 Transfers to Minors Act (IC 30-2-8.5) to create a trust that
 12 satisfies the requirements of Section ~~2503~~ **2503(c)** of the Internal
 13 Revenue Code and the regulations adopted under that Section; or
 14 (2) the authority given to an attorney in fact under
 15 IC 30-5-5-15(a)(3) to establish a revocable trust for the benefit of
 16 a principal.

17 SECTION 7. IC 29-1-8-1.5 IS ADDED TO THE INDIANA CODE
 18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 19 1, 2007]: **Sec. 1.5. (a) This section does not apply to the following:**

- 20 **(1) Real property owned by a decedent.**
 21 **(2) The contents of a safe deposit box rented by a decedent**
 22 **from a financial institution organized or reorganized under**
 23 **the law of any state (as defined in IC 28-2-17-19) or the United**
 24 **States.**

25 **(b) After the death of a decedent, a person:**

- 26 **(1) indebted to the decedent; or**
 27 **(2) having possession of:**
 28 **(A) personal property;**
 29 **(B) an instrument evidencing a debt;**
 30 **(C) an obligation;**
 31 **(D) a chose in action;**
 32 **(E) a life insurance policy;**
 33 **(F) a bank account; or**
 34 **(G) intangible property, including annuities, fixed income**
 35 **investments, mutual funds, cash, money market accounts,**
 36 **or stocks;**
 37 **belonging to the decedent;**
 38 **shall furnish the date of death value of the indebtedness or**

property and the names of the known beneficiaries of property described in this subsection to a person who presents an affidavit containing the information required by subsection (c).

(c) An affidavit presented under subsection (b) must state:

(1) the name, address, Social Security number, and date of death of the decedent;

(2) the name and address of the affiant and the relationship of the affiant to the decedent;

(3) that the disclosure of the date of death value is necessary to determine whether the decedent's estate can be administered under the summary procedures set forth in this chapter; and

(4) that the affiant is answerable and accountable for the information received to the decedent's personal representative, if any, or to any other person having a superior right to the property or indebtedness.

(d) A person presented with an affidavit under subsection (b) must provide the requested information within three (3) business days after being presented with the affidavit.

(e) A person who acts in good faith reliance on an affidavit presented under subsection (b) is immune from liability for the disclosure of the requested information.

(f) A person who:

(1) is presented with an affidavit under subsection (b); and

(2) refuses to provide the requested information within three

(3) business days after being presented with the affidavit;

is liable to the estate of the decedent.

(g) A plaintiff who prevails in an action to compel a person presented with an affidavit under subsection (b) to accept the authority of the affiant or in an action for damages arising from a person's refusal to provide the information requested in an affidavit presented under subsection (b) is entitled to recover the following:

(1) Three (3) times the amount of the actual damages.

(2) Attorney's fees and court costs.

(3) Prejudgment interest on the actual damages from the date the affidavit was presented to the person.

SECTION 8. IC 29-1-8-3 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2007]: Sec. 3. (a) If it appears that the value of a decedent's gross probate estate, less liens and encumbrances, does not exceed the sum of:

- (1) ~~twenty-five~~ **fifty** thousand dollars ~~(\$25,000); (\$50,000);~~
- (2) the costs and expenses of administration; and
- (3) reasonable funeral expenses;

the personal representative or a person acting on behalf of the distributees, without giving notice to creditors, may immediately disburse and distribute the estate to the persons entitled to it and file a closing statement as provided in section 4 of this chapter.

(b) If an estate described in subsection (a) includes real property, an affidavit may be recorded in the office of the recorder in the county in which the real property is located. The affidavit must contain the following:

- (1) The legal description of the real property.
- (2) The following statement: "It appears that the decedent's gross probate estate, less liens and encumbrances, does not exceed the sum of the following: ~~twenty-five~~ **fifty** thousand dollars ~~(\$25,000); (\$50,000),~~ the costs and expenses of administration, and reasonable funeral expenses."
- (3) The name of each person entitled to at least a part interest in the real property as a result of a decedent's death, the share to which each person is entitled, and whether the share is a divided or undivided interest.
- (4) A statement which explains how each person's share has been determined.

SECTION 9. IC 29-1-8-4 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Unless prohibited by order of the court and except for estates being administered by supervised personal representatives, a personal representative or a person acting on behalf of the distributees may close an estate administered under the summary procedures of section 3 of this chapter by filing with the court, at any time after disbursement and distribution of the estate, a verified statement stating that:

- (1) to the best knowledge of the personal representative or person acting on behalf of the distributees the value of the gross probate estate, less liens and encumbrances, did not exceed the sum of:
(A) ~~the allowance, if any, provided by IC 29-1-4-1;~~

- 1 **(A) fifty thousand dollars (\$50,000);**
 2 (B) the costs and expenses of administration; and
 3 (C) reasonable funeral expenses;
 4 (2) the personal representative or person acting on behalf of the
 5 distributees has fully administered the estate by disbursing and
 6 distributing it to the persons entitled to it; and
 7 (3) the personal representative or person acting on behalf of the
 8 distributees has sent a copy of the closing statement to all
 9 distributees of the estate and to all creditors or other claimants of
 10 whom ~~he~~ **the personal representative or person acting on**
 11 **behalf of the distributees** is aware and has furnished a full
 12 account in writing of ~~his~~ **the** administration to the distributees
 13 whose interests are affected.
- 14 (b) If no actions, claims, objections, or proceedings involving the
 15 personal representative or person acting on behalf of the distributees
 16 are filed in the court within three (3) months after the closing statement
 17 is filed, the appointment of the personal representative or the duties of
 18 the person acting on behalf of the distributees terminate.
- 19 (c) A closing statement filed under this section has the same effect
 20 as one (1) filed under IC 29-1-7.5-4.
- 21 (d) A copy of any affidavit recorded under section 3(b) of this
 22 chapter must be attached to the closing statement filed under this
 23 section.
- 24 SECTION 10. IC 29-1-13-1 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. Every personal
 26 representative shall have a right to **take**, and shall take, possession of
 27 all the real and personal property of the decedent. ~~other than~~
 28 ~~allowances under IC 29-1-4-1. He~~ **The personal representative:**
- 29 **(1)** shall pay the taxes and collect the rents and earnings thereon
 30 until the estate is settled or until delivered by order of the court to
 31 the distributees; ~~He~~
 32 **(2)** shall keep in tenable repair the buildings and fixtures under
 33 **his the personal representative's** control; ~~and~~
 34 **(3)** may protect the ~~same~~ **buildings and fixtures under the**
 35 **personal representative's control** by insurance; ~~He and~~
 36 **(4)** may maintain an action:
 37 **(A)** for the possession of real property; or
 38 **(B)** to determine the title to ~~the same~~ **real property."**

1 Page 6, after line 42, begin a new paragraph and insert:

2 "SECTION 14. IC 29-3-12-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Unless the
4 protected person has been adjudicated an incapacitated person, the
5 court shall terminate the guardianship of a minor upon:

- 6 (1) the minor's attaining eighteen (18) years of age; or
7 (2) the minor's death.

8 The court may terminate the guardianship of a minor upon the minor's
9 adoption or marriage.

10 (b) The court shall terminate the guardianship of an incapacitated
11 person upon:

- 12 (1) adjudication by the court that the protected person is no longer
13 an incapacitated person; or
14 (2) the death of the protected person.

15 (c) The court may terminate any guardianship if:

- 16 (1) the guardianship property does not exceed the value of three
17 thousand five hundred dollars (\$3,500);
18 (2) the guardianship property is reduced to three thousand five
19 hundred dollars (\$3,500);
20 (3) the domicile or physical presence of the protected person is
21 changed to another state and a guardian has been appointed for
22 the protected person and the protected person's property in that
23 state; or
24 (4) the guardianship is no longer necessary for any other reason.

25 (d) When a guardianship terminates otherwise than by the death of
26 the protected person, the powers of the guardian cease, except that the
27 guardian may pay the claims and expenses of administration that are
28 approved by the court and exercise other powers that are necessary to
29 complete the performance of the guardian's trust, including payment
30 and delivery of the remaining property for which the guardian is
31 responsible to:

- 32 (1) the protected person; ~~or~~
33 (2) in the case of an unmarried minor, to a person having care and
34 custody of the minor with whom the minor resides;
35 **(3) a trust approved by the court, including a trust created by**
36 **the guardian, in which:**

37 **(A) the protected person is the sole beneficiary of the trust;**
38 **and**

- 1 **(B) the terms of the trust satisfy the requirements of**
 2 **Section 2503(c) of the Internal Revenue Code and the**
 3 **regulations under that Section;**
 4 **(4) a custodian under the Uniform Transfers to Minors Act**
 5 **(IC 30-2-8.5); or**
 6 **(5) another responsible person as the court orders.**

7 (e) When a guardianship terminates by reason of the death of the
 8 protected person, the powers of the guardian cease, except that the
 9 guardian may pay the expenses of administration that are approved by
 10 the court and exercise other powers that are necessary to complete the
 11 performance of the guardian's trust and may deliver the remaining
 12 property for which the guardian is responsible to the protected person's
 13 personal representative or to a person who presents the guardian with
 14 an affidavit under IC 29-1-8-1 or IC 29-2-1-2. If approved by the court,
 15 the guardian may pay directly the following:

- 16 (1) Reasonable funeral and burial expenses of the protected
 17 person.
 18 (2) Reasonable expenses of the protected person's last illness.
 19 (3) The protected person's federal and state taxes.
 20 (4) Any statutory allowances payable to the protected person's
 21 surviving spouse or surviving children.
 22 (5) Any other obligations of the protected person.

23 SECTION 15. IC 30-2-8.5-20 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) A personal
 25 representative or trustee may make an irrevocable transfer under
 26 section 24 of this chapter to a custodian for the benefit of a minor as
 27 authorized in the governing will or trust.

28 (b) If the testator or settlor has nominated a custodian under section
 29 18 of this chapter to receive the custodial property, the transfer shall be
 30 made to that person.

31 (c) If the testator or settlor has not nominated a custodian under
 32 section 18 of this chapter, or a person nominated as custodian dies
 33 before the transfer or is unable, declines, or is ineligible to serve, the
 34 personal representative or the trustee shall designate the custodian from
 35 among those eligible to serve as custodian for property of that kind
 36 under section 24(a) of this chapter. **The personal representative or**
 37 **trustee may be designated as custodian under this subsection if the**
 38 **personal representative or trustee is eligible to serve as custodian**

1 **for property of that kind under section 24(a) of this chapter.**

2 SECTION 16. IC 30-2-8.5-21 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) A personal
4 representative or trustee may make an irrevocable transfer to another
5 adult or trust company as custodian for the benefit of a minor under
6 section 24 of this chapter in the absence of a will or under a will or
7 trust that does not contain an authorization to do so. **The personal**
8 **representative or trustee may also serve as the custodian of the**
9 **transferred property if the personal representative or trustee is**
10 **qualified under section 24 of this chapter.**

11 (b) A guardian may make an irrevocable transfer to another adult or
12 trust company as custodian for the benefit of the minor under section
13 24 of this chapter. **The guardian may also serve as the custodian of**
14 **the transferred property if the guardian is qualified under section**
15 **24 of this chapter.**

16 (c) A transfer under subsection (a) or (b) may be made only if:
17 (1) the personal representative, trustee, or guardian considers the
18 transfer to be in the best interest of the minor;
19 (2) the transfer is not prohibited by or inconsistent with provisions
20 of the applicable will, trust agreement, or other governing
21 instrument; and
22 (3) the transfer is authorized by the court if the property
23 transferred exceeds ten thousand dollars (\$10,000) in value.

24 SECTION 17. IC 30-2-8.5-29, AS AMENDED BY P.L.238-2005,
25 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2007]: Sec. 29. (a) A custodian may deliver or pay to the
27 minor or expend for the minor's benefit so much of the custodial
28 property as the custodian considers advisable for the use and benefit of
29 the minor, without court order and without regard to:

30 (1) the duty or ability of the custodian personally or of any other
31 person to support the minor; or
32 (2) any other income or property of the minor that may be
33 applicable or available for the support of the minor.

34 (b) At any time and without a court order, a custodian may transfer
35 part or all of the custodial property to a trust, including a trust created
36 by the custodian, in which:

37 (1) the minor is the sole beneficiary of the trust; and
38 (2) the terms of the trust satisfy the requirements of Section ~~2503~~

1 **2503(c)** of the Internal Revenue Code and the regulations under
2 that section.

3 The transfer terminates the custodianship of the property to the extent
4 of the transfer.

5 (c) On petition of an interested person or the minor if the minor is
6 at least fourteen (14) years of age, the court may order the custodian to
7 deliver or pay to the minor or expend for the minor's benefit as much
8 of the custodial property as the court considers advisable for the use
9 and benefit of the minor.

10 (d) A delivery, payment, or expenditure under this section is in
11 addition to, not in substitution for, and does not affect an obligation of
12 a person to support the minor.

13 SECTION 18. IC 30-4-4-5, AS ADDED BY P.L.238-2005,
14 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2007]: Sec. 5. (a) A trustee may furnish to a person other than
16 a beneficiary a certification of trust instead of a copy of the trust
17 instrument. The certification of trust must contain the following
18 information:

19 (1) That the trust exists and the date the trust instrument was
20 executed.

21 (2) The identity of the settlor.

22 (3) The identity and address of the currently acting trustee.

23 (4) The powers of the trustee.

24 (5) The revocability or irrevocability of the trust and the identity
25 of any person holding a power to revoke the trust.

26 (6) The authority of cotrustees to sign or otherwise authenticate
27 and whether all or less than all the cotrustees are required in order
28 to exercise the powers of the trustee.

29 ~~(7) The trust's taxpayer identification number.~~

30 ~~(8)~~ (7) The manner of taking title to trust property.

31 (b) A certification of trust may be signed or authenticated by any
32 trustee.

33 (c) A certification of trust must state that the trust has not been
34 revoked, modified, or amended in any manner that would cause the
35 representations contained in the certification of trust to be incorrect.

36 (d) A certification of trust may contain the dispositive terms of a
37 trust.

38 (e) A recipient of a certification of trust may require the trustee to

1 furnish copies of excerpts from the original trust instrument and later
2 amendments that:

- 3 (1) designate the trustee; and
- 4 (2) confer on the trustee the power to act in a pending transaction
5 in which the recipient has an interest.

6 (f) A person who acts in reliance on a certification of trust without
7 knowledge that the representations contained in the certification of
8 trust are incorrect:

- 9 (1) is not liable to any person for acting in reliance on the
10 certification of trust; and
- 11 (2) may assume without inquiry the existence of the facts
12 contained in the certification of trust.

13 Knowledge of the terms of the trust may not be inferred solely from the
14 fact that a copy of all or part of the trust instrument is held by the
15 person relying on the certification.

16 (g) A person who in good faith enters into a transaction in reliance
17 on a certification of trust may enforce the transaction against the trust
18 property as if the representations contained in the certification were
19 correct.

20 (h) A person making a demand for the trust instrument in addition
21 to a certification of trust or excerpts from the original trust instrument
22 is liable for damages if the court determines that a person did not act
23 in good faith in demanding the trust instrument.

24 (i) This section does not limit the right of a person to obtain a copy
25 of the trust instrument in a judicial proceeding concerning the trust.

26 SECTION 19. IC 32-38 IS ADDED TO THE INDIANA CODE AS
27 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
28 2007]:

29 **ARTICLE 38. TITLE INSURANCE AND TRANSFERS TO**
30 **CERTAIN TRUSTS**

31 **Chapter 1. Application**

32 **Sec. 1. This article applies to a policy or commitment issued**
33 **after June 30, 2007.**

34 **Chapter 2. Definitions**

35 **Sec. 1. The definitions in IC 27-7-3-2 apply throughout this**
36 **article.**

37 **Sec. 2. "Commitment" means a commitment for title insurance.**

38 **Sec. 3. "Estate" has the meaning set forth in IC 29-1-1-3.**

1 **Sec. 4. "Named insured owner" means the person identified in**
 2 **a policy or commitment as the insured owner or the proposed**
 3 **insured owner of an interest in real property that is insured or**
 4 **proposed to be insured under the policy or commitment.**

5 **Sec. 5. "Personal representative" has the meaning set forth in**
 6 **IC 29-1-1-3.**

7 **Sec. 6. "Policy" means a title insurance policy.**

8 **Sec. 7. "Power of appointment" means a power of appointment**
 9 **described in IC 32-17-6.**

10 **Sec. 8. "Trust" has the meaning set forth in IC 30-4-1-1.**

11 **Chapter 3. Transfers to Certain Trusts**

12 **Sec. 1. The trustee of a trust is considered to be the insured**
 13 **owner under a policy or commitment that insures or proposes to**
 14 **insure an interest in real property that is transferred to the trust**
 15 **if:**

16 **(1) the transferee of the interest in real property is the trustee**
 17 **of the trust, the trust was established by the named insured**
 18 **owner, and the transferor is the named insured owner;**

19 **(2) the named insured owner reserves the right to amend or**
 20 **revoke the trust during the named insured owner's lifetime;**

21 **(3) the named insured owner is a natural person; and**

22 **(4) the transfer of the interest in real property is made by the**
 23 **named insured owner personally or by:**

24 **(A) the named insured owner's attorney in fact;**

25 **(B) the named insured owner's guardian or other similar**
 26 **person in a guardianship or protective proceeding in which**
 27 **the named insured owner is an incapacitated or a**
 28 **protected person; or**

29 **(C) the personal representative of the deceased named**
 30 **insured owner's estate under the terms and conditions of**
 31 **the named insured owner's last will and testament;**

32 **even if the named insured owner transfers the interest in real**
 33 **property to the trustee described in this section after the effective**
 34 **date of the policy or commitment.**

35 **SECTION 20. IC 34-30-2-122.7 IS ADDED TO THE INDIANA**
 36 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 37 **[EFFECTIVE JULY 1, 2007]: Sec. 122.7. IC 29-1-8-1.5 (Concerning**
 38 **a person who relies on an affidavit requesting information**

1 **necessary to determine whether an estate can be summarily**
 2 **administered).**

3 SECTION 21. [EFFECTIVE JULY 1, 2007] **IC 29-1-8-3 and**
 4 **IC 29-1-8-4, both as amended by this act, apply to the estate of an**
 5 **individual who dies after June 30, 2007."**

(Reference is to SB 49 as printed January 19, 2007.)

and when so amended that said bill do pass.

Representative Lawson L